



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

June 13, 2003

4APT-APB

John S. Lyons, Director
Department for Environmental Protection
Kentucky Natural Resources & Environmental
Protection Cabinet
803 Schenkel Lane
Frankfort, Kentucky 40601

Dear Mr. Lyons:

The United States Environmental Protection Agency (EPA) has reviewed the proposed title V operating permit for AK Steel Corporation located in Ashland, Kentucky. Based on the review of the proposed permit and the supporting information for this facility, EPA formally objects, under the authority of Section 505(b) of the Clean Air Act (the Act) and 40 CFR 70.8(c), to the issuance of the title V permit for this facility. The basis for EPA's objection is that the permit includes limitations which prevent the source from being subject to an otherwise applicable federal requirement, but are not practically enforceable.

Section 505(b)(1) of the Act and 40 CFR 70.8(c) require EPA to object to the issuance of a proposed permit amendment in writing within 45 days of receipt of the proposed permit (and all necessary supporting information) if EPA determines that the permit is not in compliance with the applicable requirements under the Act or 40 CFR Part 70. Pursuant to 40 CFR 70.8(c), this letter provides a statement of the reason(s) for EPA's objection and a description of the terms and conditions that the permit must include to respond to the objection.

Specifically, the following items are deficient in the proposed title V permit for AK Steel Corporation:

1. It appears that AK Steel may have improperly netted out of Prevention of Significant Deterioration (PSD) review with regard to the proposed production increases. First of all, the Kentucky Department for Air Quality may have improperly applied a 10-year contemporaneous period for netting purposes. Pursuant to 401 KAR 51:017, Section 1, (30)(b)2., the contemporaneous period is 5 years "for construction that commences on and after January 6, 2002" (i.e., construction permits issued on and after said date.) Therefore, all of the emission reductions claimed by AK Steel appear not to be

contemporaneous decreases and thus, should not be taken into account in the netting analysis. Without the claimed emission reductions, any proposed production increases are subject to PSD review. Furthermore, even if 10 years is used as the contemporaneous period, the emission decreases are no longer in the original 10-year contemporaneous period. Consequently, in either case, any proposed production increases may be subject to PSD review. Since 401 KAR 51:017, *Prevention of significant deterioration of air quality*, is concluded to be an applicable requirement, the title V permit must include any conditions and terms related to this requirement in accordance with 40 CFR 70.6(a)(1).

2. The Prevention of Significant Deterioration (PSD) avoidance limits placed in the permit are not practically enforceable. Rather than expressing such limits in tons per year of pollutants emitted, the limits should be based on operational restrictions (e.g., amount of fuel burned, raw material throughput, production limits, etc.). Therefore, for the source to properly avoid being subject to PSD review, the final title V permit must include practically enforceable PSD avoidance limitations as described above.

40 CFR 70.8(c)(4) and Section 505(c) of the Act provide that if the permitting authority fails to revise and resubmit a proposed permit amendment within 90 days to satisfy the objection, the authority to issue or deny the permit amendment defaults to EPA, and EPA will act accordingly. Because the objection issues must be fully addressed within 90 days, we suggest that the revised permit be submitted with sufficient advance notice so that any outstanding issues may be resolved prior to the expiration of the 90-day period.

We are committed to working with you to resolve the above issues. Please let us know if we may provide assistance to you and your staff. If you have any questions or wish to discuss this further, please contact Joel Huey, Acting Chief, Air Permitting Section at (404) 562-9104. Should your staff need further assistance, they may also contact Art Hofmeister, Kentucky title V contact, at (404) 562-9115.

Sincerely,

/s/

Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division

cc: AK Steel Corporation